THE HON'BLE MR. JUSTICE V.V.S. RAO

WEDNESDAY, THE 30TH DAY OF NOVEMBER, 2005

W.P.No. 8313 of 2002

Between:-

Uma Jute Twine Mills, rep., by its Partner, Sri T. Annaji Rao,

r/o R.P. Road, Kothavalasa, Vizianagaram district.

--Petitioner

And

Government of Andhra Pradesh, rep., by its Principal Secretary, Panchayat Raj Department, Secretariat, Hyderabad and another.

--Respondents

Oral order:-

The petitioner firm is running an industry for the manufacturing of twine. Aggrieved by the notice/letter dated 22-02-2002 issued by the 2nd respondent calling upon the petitioner to pay a sum of Rs.1,09,400-00 towards license fee purportedly in accordance with the Rules promulgated in G.O.Ms.No. 16 Panchayat Raj, Rural Development and Reliefs (PTS-III) Department dated 10-01-1996 (for short 'the G.O.'), the present writ petition is filed seeking invalidation of the Rules and also the demand made by the 2nd respondent.

It is the case of the petitioner that the impugned notice is issued as per the new Rules in G.O., which have no application to the petitioner. According to the petitioner, the said Rules are applicable in respect of those industries, which come into existence after coming into force of the Rules.

A counter affidavit is filed by the 2nd respondent opposing the writ petition and claiming that the Gram Panchayat has power to issue the demand notice claiming license fee. The Government of Andhra Pradesh promulgated the Rules in exercise of their powers under Sections 119, 120 read with Section 268 of the Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'). These Rules relate to the conditions of grant of license for installation of any machinery or manufacturing plant driven by steam, water, mechanical or electrical power. Rule (1) requires a person to obtain license, if the industry operates on steam, water, mechanical or electrical power, if such industry is established and is required a license under Sections 119 and 120 of the Act. The license fee, as per Rule 2 is as stipulated in the schedule to the Rules. Therefore, the 2nd respondent can levy license fee only if the petitioner seeks a license under Sections 119 and 120 of the Act after coming into force of the Rules. If the industry is established prior to the Rules made under G.O., as alleged, the 2nd respondent has no such authority.

In an un-reported judgment in **K.A.B. Hatcheries v. Nunna Grampanchayt (W.P.No. 9926 of 1997 dated 27-09-1999)** my learned brother Goda Raghuram, J considered a similar question and having noticed the relevant Rules held that it would not be competent for a Gram Panchayat to demand license fee in respect of installations which occurred on and subsequent to the date of issuance of the G.O. It

was held:

> "There is no ambiguity in the language employed warranting recourse to any extrinsic aids for the construction of the said rules. Rule (1) states that the licenses under Sections 119 and 120 of the Act for installation of any machinery or manufacture plant etc., in any premises may be perpetual and no periodical renewal is needed subject only to cancellations of violation of any law, terms and conditions of license. Rule 2 stipulates that the fee may be charged and collected for license granted under Rule 1 for a period up to 3 years at a time at the rate not exceeding the maximum specified in the schedule appended to the rules. On its terms, the fee that may be charged and collected under Rule 2 is referable to a license granted under Rule 1 which as is already noticed is a license for a new installation of a machinery or a manufacturing plant. The prescriptions of the license fee in the schedule are thus relatable to a license required under Rule 1 or Rule 2. Rule 3 merely ordains that no place within the limits of a Panchayat be used for any one or more of the specified purposes without a license. This Rule per se neither warrants a prescription or a demand for a license fee. The schedule is clearly referable to the provisions of Rule 2 and Rule 2 is by reference to Rule 1. Therefore, the entire regime of the quantum of license fee enumerated in the schedule is by reference to the installations which occur on and subsequent to the date of issue of G.O.Ms.No. 16, Panchayat Raj and Rural Development Relief (PTS.III) Department dated 10-1-1996 and would not enure or be operative in respect of any industry or manufacturing plant that is already in existence prior to the date of commencement of the Rules in the said G.O."

Following the same, this writ petition is disposed of declaring that the 2nd respondent has no jurisdiction or authority to compel the petitioner to pay the license fee under Sections 119 and 120 of the Act, if the petitioner installation came into existence prior to coming into force of the Rules in G.O. It is open to the 2nd respondent to verify and take action accordingly.

The writ petition is, accordingly, disposed of. No costs.

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V.V.S. RAO, J

Dated: 30-11-2005

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